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VIA HAND DELIVERY

Hon. Marlene H. Dortch
Secretary

Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Informal Complaint of Northland Networks, Ltd. Against Verizon New York Inc. Pursuant to § 208 of the Communications Act, As Amended

Dear Secretary Dortch:

Northland Networks, Ltd., ("Northland") through its attorneys, and pursuant to Section 208 of the Communications Act, as amended, 47 U.S.C. § 208, and Section 1.716 of the Commission's Rules of Practice and Procedure, 47 C.F.R. § 1.716, hereby files an informal complaint against Verizon New York Inc. ("Verizon") for its failure to pay reciprocal compensation owed to Northland under the interconnection agreement between the parties. In support thereof, it is respectfully shown as follows:

1. Northland is a New York corporation with principal offices located at 258 Genesee Street, Utica, New York 13502. Its telephone number is 315-624-2000, and its fax number is 315-624-0288.
2. Northland possesses a Certificate of Public Convenience and Necessity issued by the New

York State Public Service Commission ("PSC") in Case 94-C-0381 on December 12, 1994. That Certificate authorizes Northland to operate as a facilities-based common carrier, including the provision of residential and business local exchange service.

3. Northland provides, among other services, local exchange services in the areas of Utica and Syracuse, New York.
4. Defendant Verizon New York Inc. is a Bell Operating Company, and the Incumbent Local Exchange Carrier in the Utica and Syracuse areas in which Northland operates. The principal offices of Verizon are located at 1095 Avenue of the Americas, New York, New York 10036.
5. Northland and Verizon (then known as Bell Atlantic - New York) are parties to an Interconnection Agreement dated as of April 1, 1999. That Agreement was an adoption of the existing interconnection agreement between ACC National Telecom Corp. and Bell Atlantic, dated as of November 11, 1997. The Northland/Bell Atlantic Agreement was approved by the PSC in a single commissioner order issued in Case 99-C-0657 on August 11, 1999, and confirmed by the full PSC in an order issued on August 20, 1999.
6. Under the Interconnection Agreement, the parties are to pay reciprocal compensation to each other for the termination of calls from one carrier to another. The terms, rates and conditions of that reciprocal compensation are set forth in the Interconnection Agreement. Initially, the Interconnection Agreement provided for a "composite rate" of \$.00815 per minute, for all times of the day. That composite rate was to be adjusted twice a year. Subsequently, the parties began charging each other for reciprocal compensation at three separate day, evening and night rates per minute as set forth in Verizon's PSC No. 914 interconnection tariff filed with the PSC. Since the outset, the balance of traffic has been in Northland's favor, i.e., Verizon has sent more traffic to Northland to terminate than Northland has sent to Verizon.
7. On August 26, 1999, the PSC issued its Opinion and Order 99-10, in which it adopted a 3:1 convergent traffic rule for application of reciprocal compensation. The PSC's Order reduced the reciprocal compensation rate for all traffic in excess of the 3:1 ratio to the end office rate, instead of the tandem rate (which applies to all traffic below the 3:1 ratio). Northland incorporated the changes specified by the PSC into its reciprocal compensation billings to Verizon.
8. On April 27, 2001, this Commission issued its Internet ISP Remand Order¹, which established certain reciprocal compensation rates for internet traffic. However, the parties never amended their Interconnection Agreement to incorporate the Commission's internet reciprocal compensation rate structure. Because no amendment to the Interconnection

¹ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-carrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96-98 and 99-68, FCC 01-131, Order on Remand and Report and Order, April 27, 2001.

Agreement had been effectuated, Northland continued to bill Verizon for reciprocal compensation at the rate set forth in Verizon's PSC 914 tariff, which reflected the PSC's convergent traffic order.

9. However, from approximately June 14, 2001, forward, Verizon refused to pay the bills for reciprocal compensation issued by Northland, and instead asserted, unilaterally, that it was required to pay only the reciprocal compensation rates for internet traffic set forth in the Commission's ISP Remand Order. Accordingly, since approximately June 14, 2001, Verizon has violated the provisions of the Communications Act, and the Interconnection Agreement between the parties, by refusing to pay the lawful reciprocal compensation rate billed by Northland applicable to the exchange of traffic between the two companies.
10. Verizon has continued to unlawfully underpay Northland for reciprocal compensation to the date of this informal complaint. Accordingly, Northland seeks relief from this Commission in the form of an order directing Verizon to pay to Northland all amounts owed by Verizon to Northland for reciprocal compensation traffic, which has been underpaid by Verizon, from approximately June 14, 2001, to date. Northland's request for relief is a continuing one, such that this Commission should order Verizon to continue to pay additional amounts, which may be owed to Northland through the date of an order to be issued by this Commission.
11. This informal complaint is authorized by the Memorandum, Opinion and Order issued by this Commission in WC Docket No. 03-242, released February 11, 2004, which pre-empted the jurisdiction of the New York State Public Service Commission over this dispute.

WHEREFORE, complainant Northland Networks, Ltd. respectfully prays this Commission for an order:

- (a) Directing Verizon New York Inc. to pay all amounts due to Northland for reciprocal compensation according to the applicable rates set forth in the parties' Interconnection Agreement;
- (b) Awarding interest on all amounts due to Northland;
- (c) Awarding Northland's reasonable attorney's fees and disbursements incurred in initiating and prosecuting this informal complaint; and

- (d) Ordering and enjoining Verizon to pay the rates for reciprocal compensation set forth in the parties' Interconnection Agreement until such time as an amendment to that Agreement may be approved or ordered by the appropriate regulatory body.

Respectfully submitted,

Keith J. Roland / KJR

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cc: Sandra D. Thorn, Esq.
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